

AP

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT  
EASTERN DISTRICT-WI  
FILED

TODD A. DYER,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

Case No. 19-C-0752

Judge Pepper

2019 DEC 16 P 1:00

STEPHEN C. DRIES  
CLERK

MOTION TO EXPEDITE  
PETITIONER'S § 2255 PROCEEDINGS

RELIEF

The Petitioner, Todd A. Dyer, hereby moves the Court to respectfully expedite consideration of his proceedings with respect to his Section 2255 motion to vacate, pursuant to 28 U.S.C. § 1657(a), given his substantial showing of good cause on the merits. Prima Facie support reveals, as this Court is aware, the more this matter is delayed, the more prejudicial it not only becomes for the Petitioner, but the Government as well.

Standard of Law

Section 1657(a), Title 28, of the United States Code provides, in pertinent part:

"Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 [28 U.S.C. §§ 2241 et seq.] ... if good cause therefore is shown. For purposes of this subsection, 'good cause' is shown if a right under the Constitution of the United States or a federal statute would be maintained in a factual context that indicates that a request for expedited consideration has merit."

(underline emphasis added)

### Facts Established within Petitioner's Section 2255 Motion for Relief

This case was referred to a magistrate to conduct a proposed guilty plea colloquy. Upon the conclusion of the hearing, the Magistrate indicated that Petitioner proposed a guilty plea and recommended that the district court formally accept the guilty plea in its Report and Recommendation.

As asserted in the Petitioner's Section 2255 Motion, incorporated herein by reference, the very next day after the hearing with the Magistrate, the Petitioner notified both standby counsel that he did not wish to proceed with his proposed guilty plea, is rescinding his offer to plead guilty, and wishes to exercise his right to trial.

The most vexing problem, however, is that the Petitioner's requests were eluded by standby counsel and before he was able to have any opportunity to object to the Magistrate's Report and Recommendation, he was deprived of his right to have a full fourteen days to do so by the district court's premature and summary acceptance of the Magistrate's Report and Recommendation before the fourteen-day deadline expired.

It would be amiss of Petitioner if he did not also bring to the attention of the Court that the determination of the Petitioner's Section 2255 proceedings is necessary in this case, as it will have a direct impact upon a related civil matter, also before this Court, concerning a Temporary Restraining Order hearing currently scheduled for hearing on February 14, 2020, in United States v. Dyer, Case No. 2:19-CV-01319-PP.

### Conclusion

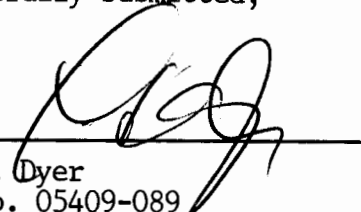
Due to the prejudicial effect amounting by any further delay as a result of the particular circumstances of this case, the Petitioner respectfully requests an order that proceedings in this action take precedence on the Court's docket over all other cases, except cases the Court considers of greater

urgency; that the Court would schedule the action for an oral hearing at the earliest practical date; and that this action be expedited in every way to ensure a speedy disposition, given its potential to have prejudicial effects as well on related civil matters in which Petitioner is also presently involved.

For the reasons discussed herein, the Court's expedited consideration is respectfully requested in this matter.

Executed this 13 day of December, 2019.


Respectfully submitted,

  
\_\_\_\_\_  
Todd A. Dyer  
Reg. No. 05409-089  
F.C.I. Elkton  
P.O. Box 10  
Lisbon, OH 44432  
Petitioner

Certification

I hereby certify under the penalty of perjury that the foregoing and following is true and correct and placed in the institutional mail system on this day executed, U.S. Mail postage pre-paid by me, addressed to the Office of the Clerk for the United States District Court of Wisconsin, Eastern District.

Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. This document may be accessed and viewed therein.

  
\_\_\_\_\_  
Todd A. Dyer  
Petitioner